

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

-----X		
BRASSICA PROTECTION PRODUCTS LLC,	:	1:07-cv-07844-SAS
	:	
Plaintiff,	:	
	:	
-against-	:	DEFENDANT CAUDILL SEED & WAREHOUSE CO., INC.'S
CAUDILL SEED & WAREHOUSE CO., INC.	:	MOTION TO DISMISS, STAY, OR TRANSFER
	:	
Defendant.	:	
-----X		

Defendant Caudill Seed & Warehouse Co., Inc., through counsel, hereby moves this Court to dismiss or stay the present action in favor of a mirror image first-filed action, captioned *Caudill Seed & Warehouse Co., Inc. d/b/a Caudill Seed Co. v. Brassica Protection Products LLC*, Case No. 3:07-cv-00464-JBC, pending in the United States District Court, Western District of Kentucky, Louisville Division. Alternatively, for the convenience of the parties and in the interest of judicial economy, Defendant moves this Court to transfer this action to the Western District of Kentucky pursuant to 28 U.S.C. § 1404(a).

The grounds for this motion are set forth fully in Defendant's opening brief, which is being served and file contemporaneously herewith.

Respectfully submitted,

s/ Gregory P. Gulia  
 Gregory P. Gulia  
 Vanessa C. Hew  
 DUANE MORRIS LLP  
 1540 Broadway  
 New York, NY 10036-4086  
 (212) 692-1062  
 (212) 202-6151 (fax)  
 GPGulia@duanemorris.com  
 VCHew@duanemorris.com

OF COUNSEL:

Ann G. Schoen  
FROST BROWN TODD LLC  
2200 PNC Center  
201 East Fifth Street  
Cincinnati, Ohio 45202  
(513) 651-6128  
(513) 651-6981 (fax)  
aschoen@fbtlaw.com

CERTIFICATE OF SERVICE

I hereby certify that I electronically filed the foregoing with the Clerk of the Court using the CM/ECF system which will send notification of such filing to the following this 20<sup>th</sup> day of November, 2007:

Richard S. Taffet  
Edward L. Powers  
Bingham McCutchen LLP  
399 Park Avenue  
New York, NY 10022-4689

s/ Gregory P. Gulia

DM1\1229631.1